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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,118	03/31/2006	Peter Bauer	2002P01581WOUS	4347

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EXAMINER

TRAN, HANH VAN

ART UNIT

PAPER NUMBER

3637

NOTIFICATION DATE

DELIVERY MODE

01/07/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

NBN-IntelProp@bshg.com

### Office Action Summary

**Application No.**

10/543,118

**Applicant(s)**

BAUER ET AL.

**Examiner**

HANH V. TRAN

**Art Unit**

3637

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18, 20-24 and 27-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18, 20-24 and 27-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 10/5/2009.

***Drawings***

2. The drawings were received on 10/5/2009. These drawings are acceptable.

***Specification***

3. The amendment filed 10/5/2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: page 5, lines 16-19, "[A] recess 40 formed between the rear side of the outer wall piece 11 and an upper side of the plate 7 can be grasped by a user to open and close the door. This recess 40 extends across the entire width of the top of the door".

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 15-18, 20-24, 27, 35-36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the

application was filed, had possession of the claimed invention. More specifically, the newly added limitation in claim 15 of a grasping recess being formed between a rear side of the outer wall piece and an upper surface of the plate, and claim 36 of a grasping structure being formed in a top edge of the door, the grasping structure extending across almost an entire width of the door is considered to be new matter, since the original disclosure fails to provide adequate support for said claimed limitation of a grasping recess/grasping structure, and that the drawing figures clearly show a grasping structure in the formed of a handle provided to the outer wall of the door for opening and closing of said door.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation in the claim of the grasping structure being formed "in a top edge of the door, the grasping structure extending across almost the entire width of the door" is indefinite for failing to clearly define the metes and bounds of the claimed invention. More specifically, it is not clear how it is possible for "an edge" of the door to have a grasping structure which extends across almost an entire width of the door as claimed. Line 15, "the upper" transverse edge of the door lacks antecedent basis, thus indefinite. Therefore, the claim will be examined as best understood or so far as definite.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 28-31, and 33 stand rejected under 35 U.S.C. 102(e) as being anticipated by WO 02/065036 to Bukulmez et al.

Bukulmez et al discloses a refrigerating appliance comprising all the elements recited in the above listed claims including a body, comprising: a door 2 abutting the body in a closed position; a display element/control panel 3; a viewing window 13 formed on said door; and said viewing window 13 oriented such that said display element/control panel 3 is visible when said door is closed, said door comprising: an outer wall; an inner wall; said outer wall and said inner wall interconnected along their longitudinal and transverse edges forming a space therebetween to form a depth for the door; and one transverse edge formed with a channel spacing extending through the door and a viewing window 13 extending over said channel spacing, wherein the viewing window and channel spacing allowing user visual access to space adjacent the opposing side of the door, said door having a rectangular outline and a pair of shorter rectangular sides and a pair of longer rectangular sides joining said shorter sides into said rectangular outline, including said viewing window 13 formed on one of said shorter

rectangular sides of said door serving as said transverse edge, a transverse edge of said outer wall and a corresponding transverse edge of said inner wall lie opposite one another and an opening serving as said viewing window formed over said depth of said door, said transverse edge of said outer wall has said viewing window formed therein serving as a recess and projecting over said corresponding transverse edge of said inner wall, a first end element 9 affixed to the edge of said outer wall and an edge of said inner wall, said first end element and said outer and inner walls define an insulating intermediate space, said first end element following the contour of said viewing window, an at least partially transparent pane 14 arranged in said viewing window 13, with said pane 14 inserted in a window cut-out formed in said end element 9; wherein the door 2 covers the body of the refrigerating appliance to its upper edge and wherein the control panel 3 mounted on the upper front edge of the front side of the body of the refrigerating appliance is visible through the viewing window 13.

***Claim Rejections - 35 USC § 103***

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claim 32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bukulmez et al.

Bukulmez et al discloses all the elements as discussed above except for the pane formed integrally with said end element.

In regard to the pane formed integrally with the end element (instead of two parts), the examiner takes the position that it would have been obvious to have the pane of Bukulmez formed integrally with the end element, since it is well known that constructing formerly various structures into a single or integral structure or vice versa involves only routine and well within the level of one skill in the art.

13. Claim 34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bukulmez et al in view of DE 9218613 to Licentia.

Bukulmez et al discloses all the elements as discussed above except for the door including a non-transparent decoration formed at least on a portion of the back of the pane.

Licentia teaches the idea of providing a household appliance with a non-transparent decoration in a panel for aesthetic purpose. Therefore, it would have been obvious to modify the structure of Bukulmez et al by providing the door with a non-transparent decoration for aesthetic purpose, as taught by Licentia, since both teach alternate conventional household appliance structure, thereby providing structure as claimed.

14. Claims 15-17, 20-24, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 6,827,410 to Antos et al in view of WO 02/065036 to Bukulmez et al.

Antos et al discloses a refrigerating appliance comprising all the elements recited in the above listed claims including: a body 14, a door 12 abutting the body 14 in a closed position, the door comprising an outer wall, an inner wall, said outer and inner walls interconnected along their longitudinal and transverse edges forming a space therebetween to form a depth for the door, an upper element 28 being attached to an upper transverse edge of the door, the upper end element 28 including a plate (defining as the horizontal portion extending between vertical member 36 and vertical member 46, such as shown in Fig 5) extending horizontally between the inner and outer walls across the depth of the door and an outer wall piece 30 that extends upward from a front edge of the plate, wherein a grasping recess is formed between a rear side of the outer wall piece 30 and an upper surface of the plate; a control panel 16

The differences being that Antos et al fails to disclose (1) the limitation in claim 15 of a viewing window being formed in the outer wall piece 30, the viewing window allowing a user visual access to a space behind the viewing window, (2) the limitation in claim 16 of the viewing window is formed on one of the shorter rectangular sides of the door 12 serving as said upper transverse edge, (3) the limitation in claim 20 of the door including an at least partially transparent pane arranged in said viewing window, (4) the limitation in claim 21 of said pane formed integrally with said upper end element 28, (5) the limitation in claim 22 of said pane is inserted in the viewing window, (6) the limitation



in claim 23 of said outer wall is arched at least in the area of said viewing window and said pane mounted under pressure, (7) the limitation in claim 24 of the door including locating means for acting centrally on said pane for locating said pane on said door, (8) the limitation in claim 35 of said pane formed from a selected one of a highly transparent material and an at least partially opaque material.

However, in regard to (1), (2), (3), (5), (6), (7), and (8) above, Bukulmez et al teaches the idea of providing a refrigerating appliance comprising a body, a door 2 abutting the body in a closed position, a control panel 3 having a display 6, an upper element 9 being attached to an upper transverse edge of the door 2 including a viewing window 13 formed in an outer wall piece of the upper element 9, the viewing window allowing a user visual access to a space behind the viewing window, the viewing window being formed on one of the shorter rectangular sides of the door serving as said upper transverse edge, the door including an at least partially transparent pane 14 arranged in said viewing window 13, said pane 14 being inserted in the viewing window 13, said outer wall being arched at least in the area of said viewing window 13 and said pane 14 mounted under pressure, the door 2 including locating means for acting centrally on said pane 14 for locating said pane on said door, and said pane formed from a selected one of a highly transparent material and an at least partially opaque material; wherein the viewing window and pane allow the display 6 to be seen and monitored even when the door is closed.

Therefore, it would have been obvious to modify the structure of Antos et al by providing the control panel 16 with a display therein, a viewing window formed in an

outer wall piece of the upper element, the viewing window allowing a user visual access to a space behind the viewing window, the viewing window being formed on one of the shorter rectangular sides of the door serving as said upper transverse edge, the door including an at least partially transparent pane arranged in said viewing window, said pane being inserted in the viewing window, said outer wall being arched at least in the area of said viewing window and said pane mounted under pressure, the door including locating means for acting centrally on said pane for locating said pane on said door, and said pane formed from a selected one of a highly transparent material and an at least partially opaque material in order to allow the display to be seen and monitored even when the door is closed, as taught by Bukulmez, since both teach alternate conventional refrigerating appliance structure, having a control panel provided thereto, thereby providing structure as claimed.

In regard to the limitation in claim 21 of said pane formed integrally with said upper end element 28, since Antos et al, as modified in view of Bukulmez, discloses all the elements as discussed above except for the pane formed integrally with said end element, the examiner respectfully takes the position that it would have been obvious to have the pane of Antos et al, as modified, formed integrally with the end element, since it is well known that constructing formerly various structures into a single or integral structure or vice versa involves only routine and well within the level of one skill in the art.

15. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Antos, as modified, as applied to claim 20 above, and further in view of DE 9218613 to Licentia.

Antos et al, as modified, discloses all the elements as discussed above except for the door including a non-transparent decoration formed at least on a portion of the back of the pane.

Licentia teaches the idea of providing a household appliance with a non-transparent decoration in a panel for aesthetic purpose. Therefore, it would have been obvious to modify the structure of Antos et al, as modified, by providing the door with a non-transparent decoration for aesthetic purpose, as taught by Licentia, since both teach alternate conventional household appliance structure, thereby providing structure as claimed.

16. Claim 36, as best understood or so far as definite, is rejected under 35 U.S.C. 103(a) as being unpatentable over Antos et al in view of Bukulmez, USP 6,101,819 to Onaka et al and USP 7,031,144 to Carter et al.

Antos et al discloses a refrigerating appliance comprising a body 14 with a back side, a front side extending between an upper front edge and a lower front edge, an opening formed in the front side, and a top surface extending to and between the back side and the front side, a control panel 16 mounted on an upper front edge of the front side of the body 14, a door 12 being operable to close off the opening formed in the front side of the body 14 and the door having an outer wall, an inner wall, the outer and inner walls interconnected along their longitudinal and upper and lower transverse

edges forming a space therebetween to form a depth for the door, a grasping aperture being formed in a top edge of the door, the grasping aperture extending across almost an entire width of the door.

The differences being that Antos et al fails to disclose the control panel 16 extending to a height such that no portion of the control panel 16 extends higher than the top surface extending to and between the back side and the front side, the upper transverse edge of the door being formed with a viewing window extending over the depth of the door, wherein the door covers the body of the refrigerating appliance to its upper edge and wherein the control panel 16 mounted on the upper front edge of the front side of the body of the refrigerating appliance is visible through the viewing window.

However, Bukulmez et al teaches the idea of providing a refrigerating appliance comprising a body, a door 2 abutting the body in a closed position, a control panel 3 having a display 6, an upper element 9 being attached to an upper transverse edge of the door 2 including a viewing window 13 formed in an outer wall piece of the upper element 9, the viewing window allowing a user visual access to a space behind the viewing window, the viewing window being formed on one of the shorter rectangular sides of the door serving as said upper transverse edge, the door including an at least partially transparent pane 14 arranged in said viewing window 13, said pane 14 being inserted in the viewing window 13, said outer wall being arched at least in the area of said viewing window 13 and said pane 14 mounted under pressure, the door 2 including locating means for acting centrally on said pane 14 for locating said pane on said door,

and said pane formed from a selected one of a highly transparent material and an at least partially opaque material; wherein the viewing window and pane allow the display 6 to be seen and monitored even when the door is closed.

Further, Onaka (figs 14-15) and Carter (figs 1-3) both show that it is well known in the art to also having a control panel mounted to the front edge of the front side of a body of a refrigerator appliance such that no portion of the control panel extends higher than the top surface of the body; wherein mounting the control panel to the front side of the body of a refrigerator facilitates viewing of the control panel, yet reduces the overall dimension of the refrigerator appliance.

Therefore, it would have been obvious to one having ordinary skill in the art to modify the structure of Antos et al by providing the control panel 16 with a display therein, the control panel extending to a height such that no portion of the control panel 16 extends higher than the top surface extending to and between the back side and the front side, the upper transverse edge of the door being formed with a viewing window extending over the depth of the door, wherein the door covers the body of the refrigerating appliance to its upper edge and wherein the control panel 16 mounted on the upper front edge of the front side of the body of the refrigerating appliance is visible through the viewing window in order to allow the display to be seen and monitored even when the door is closed, as taught by Bukulmez, and in order to facilitate viewing of the control panel, yet reducing the overall dimension of the refrigerator appliance, as taught by Onaka and Carter, since the references teach alternate conventional refrigerating

appliance structure, having a control panel provided thereto, thereby providing structure as claimed.

***Response to Arguments***

17. Applicant's arguments filed 10/5/2009 have been fully considered but they are not persuasive. In response to applicant's argument on page 11 regarding claims 28-34 that Bukulmez fails to teach or fairly suggest a display element being mounted at an upper front edge of the body of the refrigerating appliance, but rather teaches the display element being mounted on a top of the body, the examiner respectfully takes the position that the claimed language fails to provide adequate structural limitations to the claim in defining the upper front edge of the body in order to distinguish from the prior art of record. Bukulmez clearly discloses and shows (such as shown in Fig 3) the display element 3 having at least a portion being mounted the "an upper front edge" of the body of the refrigerating appliance.

18. Applicant's arguments with respect to claims 15-17, 20-24, 27, 35-36 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

19. Claim 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HANH V. TRAN whose telephone number is (571)272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J Allen Shriver can be reached on (571) 272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT  
January 3, 2009

/Hanh V. Tran/  
Primary Examiner, Art Unit 3637